



**TOWN OF WEARE**  
PLANNING BOARD  
ZONING BOARD OF ADJUSTMENT  
15 Flanders Memorial Road  
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Naomi L. Bolton  
Land Use Coordinator

**Office Hours:**  
Monday  
Tuesday  
Thursday  
8 AM – 4:30 PM

**PLANNING BOARD  
MINUTES  
JULY 13, 2004  
(Approved as amended 10/5/04)**

**PRESENT:** Tim Galvin, Chairman; Forrest Esenwine, Vice Chairman; Leon Methot; Jack Dearborn; Matt Pelletier, Alternate; Naomi L. Bolton, Land Use Coordinator.

**GUESTS:** Ed Palmer; Rick Brown; Tom Friscella; Gene Propper; Jeffrey Gilman; Ginger Esenwine; Terry Knowles; Craig Knowles; Verna Martin; Heleen Kurk; Neal Kurk; Janet Brown; Burt Brown; Terry Proctor; Jan Proctor.

**I. CALL TO ORDER:**

Chairman Tim Galvin called the meeting to order at 7:30 PM at the Town Office Building. Chairman Galvin appointed Matt Pelletier to sit in place of June Purington for tonight's meeting. Chairman Galvin then explained the process by which the board conducts its meetings.

**II. PUBLIC HEARINGS:**

Chairman Galvin explained that there has been a couple of recent Supreme case decisions that affect State law regarding how variances can be granted. Tonight's agenda contains two cases for variances. The board felt that these two should be continued to give the board a chance to meet with Town council to see how these changes affect these two variances. The board has requested to meet with Town counsel as soon as possible to discuss these changes. Forrest Esenwine moved that Case #1704 & Case #1804 be continued to next month to allow the board to meet with Town Counsel regarding the recent State law changes, Matt Pelletier seconded the motion. Vote: Unanimous vote in favor (Methot, Pelletier, Esenwine, Galvin, Dearborn).

Case #1104 Edward Palmer (Owner: Horace Palmer)(Continued Hearing)  
Special Exception, Article 24, Section 24.8  
Applicant is requesting permission to allow parking within the setback.  
Tax Map 411-102 South Stark Highway

Chairman Galvin moved to accept the application as complete, Leon Methot seconded the motion, all in favor. Ed Palmer was present and explained that the

purpose of this plan is to allow parking in the setback. Mr. Methot informed the board that he has received a conditional approval from the Planning Board for this plan. Mr. Palmer then went through the seven conditions required for a special exception as follows:

1. The specific site is an appropriate location for such a use or uses in terms of overall community development: Two existing lots with frontage on Route 114 lie in the commercial district. An existing coffee shop is situated on one lot and the applicant proposes retail/storage building with some apartments on the other lot.
2. The proposed use will not adversely affect the neighborhood and shall produce no significant reduction of real estate values in the neighboring area: The coffee shop is existing and there has been no complaint that it adversely affects the neighborhood or reduces property values. The proposed retail storage building is a permitted use in the commercial district.
3. The proposed use will not be a nuisance or serious hazard to vehicular traffic or pedestrians: The proposed use has a curb cut off Route 114 and proposes ample off-street parking to avoid any pedestrian or vehicular safety issues.
4. The proposed use will not cause an undue burden on the Town through the provision of basic Town services: The proposed uses utilize existing well-water and on-site septic systems. It will have limited impact on other Town services.
5. Adequate off-street parking be provided if determined necessary by the Zoning Board of Adjustment: 26 off street parking spaces are proposed, two of which are handicap spaces.
6. A buffer may be required to screen neighboring uses from the proposed use. Buffers may be fence screens, dense planting of suitable trees and shrubbery, or naturally occurring shrubs and trees: The proposed use is compatible with other uses in the Commercial District and will rely on visibility from Route 114.
7. The Zoning Board of Adjustment, in granting any special exception, may include such restrictions or conditions to insure compliance with this section: (no response was indicated).

Approving Abutters: NONE

Disapproving Abutters: NONE

Other Boards: NONE

Public At Large: NONE

Chairman Galvin closed the public hearing portion of this meeting at 8:12 PM.

Case #1304    Thibeault Corporation of NE  
Special Exception, Article 19, Section 19.1.6  
Application is requesting permission to expand the current gravel  
removal operation.  
Tax Map 409-104                      Clough Park Road

The applicants requested a continuance to August 3, 2004 because they have to appear in another Town this same evening.

Chairman Galvin stated that he is going to excuse himself from the board on the next three hearings. Chairman Galvin asked Vice Chairman Forrest Esenwine to chair the next three hearings.

Case #1404    Heleen H. Kurk  
Special Exception, Article 30-A, Section 30-A.3.1  
Applicant is requesting permission to put an addition onto an existing barn located in the Mt. Dearborn Road Historic District Overlay.  
Tax Map 407-129                      Mt. Dearborn Road

Acting Chairman Esenwine moved to accept the application as complete, Matt Pelletier seconded the motion, unanimous vote in favor (Methot, Dearborn, Pelletier, Esenwine). Neal and Heleen Kurk were present for this hearing. Mr. Kurk explained that they want to put a 24' x 20' addition onto the existing 36' x 46' barn which lies within the Mt. Dearborn Road Historic District Overlay. The construction, style and materials of the addition, including framing (post and beam), siding (vertical wide pine boards) and roofing (cedar shingles), will be the same as those on the circa 1800 barn that pre-dated the ordinance and will conform in style, appearance and materials to the character and period of the circa 1780 dwelling unit on an adjacent lot, thus complying with the requirements of the Zoning Ordinance (Art. 30-A.3.1.3). Mr. Kurk then went through the seven conditions as follows:

1. The specific site is an appropriate location for such a use or uses in terms of overall community development: A circa 1800 barn already exists, enhancing the Historic Area Overlay District. The proposed addition would be compatible with the location of the existing structure and would develop the area consistent with the purposes of the District.
2. The proposed use will not adversely affect the neighborhood and shall produce no significant reduction of real estate values in the neighboring area: The proposed addition will expand an existing use at its existing location and will have no adverse impact on the neighborhood visually or in terms of real estate values.
3. The proposed use will not be a nuisance or serious hazard to vehicular traffic or pedestrians: The proposed addition will be used for the same purposes as the barn to which it is attached and therefore will not create a nuisance. As it is located several hundred feet from the road, and will generate no more traffic than the existing barn generates. It will not add to vehicular or pedestrian traffic hazards.
4. The proposed use will not cause an undue burden on the Town through the provision of basic Town services: The proposed addition will require an insignificant increase in basic Town services, such as appraising, building inspection, and fire and police protection.

5. Adequate off-street parking be provided if determined necessary by the Zoning Board of Adjustment: None is required, as the proposed addition will not generate additional traffic.
6. A buffer may be required to screen neighboring uses from the proposed use. Buffers may be fence screens, dense planting of suitable trees and shrubbery, or naturally occurring shrubs and trees: No buffer is required as the proposed addition is in harmony with the purposes of the District, is setback over 200 feet from the road where the road is closest to the proposed use and over 400 feet from the point where it is visible from the road.
7. The Zoning Board of Adjustment, in granting any special exception, may include such restrictions or conditions to insure compliance with this section: The applicant would be willing to comply with any such restrictions but can think of none that would be applicable or appropriate.

Approving Abutters: Terry Knowles, abutter at 257 Mt. Dearborn Road spoke in favor of this application.

Disapproving Abutters: NONE

Public At Large: Verna Martin, resident of Mt. Dearborn Road also spoke in favor of this application.

Tim Galvin voiced his approval as a resident of the neighborhood.

Other Boards: NONE

Acting Chairman Esenwine closed the public portion of this hearing at 8:25 PM

Case #1504 Terence & Janice Proctor

Special Exception, Article 30-A, Section 30-A.3.1

Applicant is requesting permission to move repair roofs, siding and move a building for use as storage in the Mt. Dearborn Historic District Overlay.

Tax Map 408-049

16 Mt. Dearborn Road

Leon Methot moved to accept the application as complete with the presentation of the plot plan that was brought in by the applicant, Matt Pelletier seconded the motion, unanimous vote in favor (Methot, Dearborn, Pelletier, Esenwine). Mr. & Mrs. Proctor were present for this hearing. The Proctors would like to disassemble an outbuilding and move it to another location onto a cement pad. They would also like permission to reside and reroof the existing house. The Proctors then went through the seven conditions for a special exception as follows:

1. The specific site is an appropriate location for such a use or uses in terms of overall community development: moving outbuilding to new area, replace rotted siding with new cedar siding, replacing leaking roofs.
2. The proposed use will not adversely affect the neighborhood and shall produce no significant reduction of real estate values in the neighboring area: n/a
3. The proposed use will not be nuisance or serious hazard to vehicular traffic or pedestrians: n/a

4. The proposed use will not cause an undue burden on the Town through the provision of basic Town services: n/a
5. Adequate off-street parking be provided if determined necessary by the Zoning Board of Adjustment: n/a
6. A buffer may be required to screen neighboring uses from the proposed use. Buffers may be fence screens, dense planting of suitable trees and shrubbery, or naturally occurring shrubs and trees: no trees will be cut.
7. The Zoning Board of Adjustment, in granting any special exception, may include such restrictions or conditions to insure compliance with this section: n/a

Approving Abutters: NONE

Disapproving Abutters: NONE

Public At Large: Terry and Craig Knowles were present and voiced their approval of this request.

Neal & Heleen Kurk were also present and stated they were in favor of this request.

Tim Galvin responded "ditto".

Being there were no further comments or questions, Acting Chairman Esenwine closed the public portion of this hearing at 8:35 PM.

Case #1604 Heleen H. Kurk & Terry M. Knowles

Special Exception, Article 30-A, Section 30-A.3.1

Applicant is requesting permission to install a gate and a wall or fence to close access to Saw Mill Road at its intersection with Mt. Dearborn Road.

Tax Map 407-129 & 408-062

Mt. Dearborn Road

Forrest Esenwine moved to accept the application as complete, Matt Pelletier seconded the motion, all in favor. Terry Knowles explained that this request is to erect a gate and adjacent wall or fence at the intersection of Mt. Dearborn and Saw Mill roads in order to block entry to Saw Mill Road in light of the vote of the Town at the 2004 meeting to discontinue the road. The gate and wall or fence will be in a pre-1840's style, with the gate consisting of wooden rails attached to granite posts, and the adjacent wall or fence consisting of one of the following, depending on the cost and availability of services; planted trees and shrubs, granite posts and wooden rails, wooden posts and wooden rails, or thrown field stones, any of which would comply with the requirements of the zoning ordinance. Mrs. Knowles then went through the seven conditions required for a special exception as follows:

1. The specific site is an appropriate location for such a use or uses in terms of overall community development: Adjacent to the site and through the Historic Area Overlay District are a variety of pre-1840 gates, walls and fences after which the proposed gate and wall/fence would be patterned and with which they would harmonize. The proposed gate and wall/fence would be consistent with the purposed of the District.

2. The proposed use will not adversely affect the neighborhood and shall produce no significant reduction of real estate values in the neighboring area: The proposed gate and wall/fence will replicate existing gates, walls and fences within the District and will have no adverse impact on the neighborhood visually or in terms of real estate values.
3. The proposed use will not be a nuisance or serious hazard to vehicular traffic or pedestrians: The proposed gate and wall/fence will help avoid hazards to vehicular traffic and pedestrians by eliminating an “indecision” point for drivers who are unfamiliar with the intersection.
4. The proposed use will not cause an undue burden on the Town through the provision of basic Town services: The proposed addition will require no increase in Town snowplowing and other road maintenance costs.
5. Adequate off-street parking will be provided if determined necessary by the Zoning Board of Adjustment: None is required.
6. A buffer may be required to screen neighboring uses from the proposed use. Buffers may be fence screen, dense planting of suitable trees and shrubbery, or naturally occurring shrubs and trees: No buffer is required as the proposed gate and wall/fence are in harmony with the purposes of the District, joining existing stone walls on the applicant’s abutting properties.
7. The Zoning Board of Adjustment, in granting any special exception, may include such restrictions or conditions to insure compliance with this section: The applicants would be willing to comply with any such restrictions but can think of none that would be applicable or appropriate.

Approving Abutters: Verna Martin, abutter stated she is in favor of this request.

Disapproving Abutters: NONE

Public At Large: Tom Friscella, resident stated that he has been using this road for several years to get to the Burdick property and he is not in favor of having a fence and gate installed as it would affect his continued access.

Mrs. Knowles responded that since the vote at Town meeting in March the property was discontinued and is now the private property of herself and the Kurk’s. So any access that has taken place has been done without permission.

Jan Proctor, resident of 16 Mt. Dearborn Road voice her approval.

Tim Galvin, resident of 488 Mt. Dearborn Road also voice his approval.

Other boards: NONE

Being there was no further comments or questions, Acting Chairman Esenwine closed the public portion of this hearing at 8:46 PM.

Tim Galvin then retained his seat as the Chairman at this point of the meeting.

### **III. CASE DECISIONS:**

Case #1104 Edward Palmer (Owner: Horace Palmer)(Continued Hearing)

Special Exception, Article 24, Section 24.8

Applicant is requesting permission to allow parking within the setback.

Tax Map 411-102

South Stark Highway

Jack Dearborn moved to grant the special exception for Case #1104, Leon Methot seconded the motion. Discussion: Forrest Esenwine stated that he has an issue with the parking spaces right out to the property line. He also had an issue with the response to point #2 with particular regard to causing a devaluation of property values. Vote: 4 in favor (Methot, Dearborn, Pelletier, Galvin) and 1 abstention (Esenwine), therefore motion passes and the special exception is granted.

Case #1304 Thibeault Corporation of NE

Special Exception, Article 19, Section 19.1.6

Application is requesting permission to expand the current gravel removal operation.

Tax Map 409-104

Clough Park Road

Jack Dearborn moved to continue this hearing to August 3, 2004, Leon Methot seconded the motion, unanimous vote in favor (Methot, Dearborn, Pelletier, Galvin, Esenwine).

Chairman Tim Galvin stepped down for the decision on the next three hearings and Vice Chairman Forrest Esenwine was the Acting Chairman.

Case #1404 Heleen H. Kurk

Special Exception, Article 30-A, Section 30-A.3.1

Applicant is requesting permission to put an addition onto an existing barn located in the Mt. Dearborn Road Historic District Overlay.

Tax Map 407-129

Mt. Dearborn Road

Jack Dearborn moved to grant the special exception for Case #1404, Leon Methot seconded the motion, unanimous vote in favor (Methot, Dearborn, Pelletier, Esenwine).

Case #1504 Terence & Janice Proctor

Special Exception, Article 30-A, Section 30-A.3.1

Applicant is requesting permission to move repair roofs, siding and move a building for use as storage in the Mt. Dearborn Historic District Overlay.

Tax Map 408-049

16 Mt. Dearborn Road

Leon Methot moved to grant the special exception on Case #1504, Jack Dearborn seconded the motion, unanimous vote in favor (Methot, Dearborn, Pelletier, Esenwine).

Case #1604 Heleen H. Kurk & Terry M. Knowles  
Special Exception, Article 30-A, Section 30-A.3.1  
Applicant is requesting permission to install a gate and a wall or  
fence to close access to Saw Mill Road at its intersection with Mt.  
Dearborn Road.  
Tax Map 407-129 & 408-062 Mt. Dearborn Road

Jack Dearborn moved to grant the special exception for Case #1604, Forrest Esenwine seconded the motion, unanimous vote in favor (Methot, Dearborn, Pelletier, Esenwine).

Chairman Tim Galvin then retained his seat back on the board for the remainder of the evening.

**IV. OTHER BUSINESS:**

REVISED CHECKLIST: Chairman Galvin shared a revised checklist with the board, which is currently being used to determine if an application is complete or incomplete prior to the board getting it.

BY-LAW CHANGES: The board wanted to schedule a public hearing for August 3, 2004 for the board to make proposed changes to the Zoning Board by-laws.

LEGAL MEETING WITH BILL DRESCHER: Chairman Galvin is going to be going to the upcoming Board of Selectmen's meeting requesting permission to have meeting to discuss new requirements per state law requiring variances. Naomi is to check with Bill Drescher on a time frame to have the meeting.

**V. ADJOURNMENT:**

As there was no further business to come before the board, Leon Methot moved to adjourn at 9:30 PM, Forrest Esenwine seconded the motion, all in favor.

Respectfully submitted,

Naomi L. Bolton  
Land Use Coordinator